

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

DESSIDE HOLDINGS LIMITED,

Petitioner,

vs.

MEGAWINE, INC., VADIM L.
TOMCHIN, NATALIA LUKINA,
GRANDPOINT BANK, and CITY
NATIONAL BANK,

Respondents.

Case No. 13-cv-08211-JAK-JCG

**[PROPOSED] ORDER RE:
PLAINTIFF'S *EX PARTE*
APPLICATION FOR AN ORDER
TO SHOW CAUSE WHY VADIM
TOMCHIN AND NATALIA
LUKINA SHOULD NOT BE FOUND
IN CONTEMPT FOR REFUSAL TO
COMPLY WITH THIS COURT'S
ORDER COMPELLING
COMPLIANCE WITH SUBPOENAS
SERVED PURSUANT TO THIS
COURT'S ORDER**

1 This matter came to be heard on May 20, 2014 on Desside Holdings Limited's
2 ("Desside's") *Ex Parte* Application For An Order To Show Cause Why Vadim
3 Tomchin And Natalia Lukina Should Not Be Found In Contempt For Refusal To
4 Comply With Subpoenas Served Pursuant To This Court's Order (the "Ex Parte").

5 On April 21, 2014, this Court ordered Vadim Tomchin ("Tomchin") and
6 Natalia Lukina ("Lukina") to show cause why they should not be found in contempt
7 for their failure to appear for their Court-ordered depositions (the "Order"). The
8 Order required Tomchin and Lukina to file a statement of cause, supported by a
9 declaration under oath, to the Order, as well as their response to the facts stated in
10 the Ex Parte, on or before May 6, 2014. The Order further required Desside to file a
11 response to Tomchin's and Lukina's statement of cause on or before May 13, 2014,
12 and granted Tomchin and Lukina the option to file a reply on or before May 16,
13 2014.

14 Upon consideration of the pleadings, papers, and records on file, the Court
15 makes the following findings of fact:

16 1. Desside properly served the Order on Tomchin and Lukina pursuant to
17 the Court's instructions.

18 2. Tomchin and Lukina disobeyed the Order and failed to file a statement
19 of cause, or any document whatsoever, in response to the Order.

20 3. Tomchin and Lukina failed to contact Desside regarding the Order.

21 4. Pursuant to this Court's Order, Desside filed its Notice of Tomchin's
22 And Lukina's Failure To File A Statement Of Cause on May 13, 2014 (the
23 "Notice"). [Dkt. No. 37].

24 5. Tomchin and Lukina failed to file a reply to Desside's Notice.

25 6. Tomchin and Lukina failed to appear for the Order to Show Cause
26 Hearing on May 20, 2014.

27 //

28 //

1 7. Tomchin and Lukina have failed and refused, and are failing and
2 refusing, to obey and comply with this Court's Orders regarding their discovery
3 obligations and are in civil contempt of said decrees.

4 On the foregoing findings of fact, and good cause appearing:

5 **IT IS HEREBY ORDERED** that Tomchin and Lukina are held in civil
6 contempt of court;

7 **IT IS FURTHER ORDERED** that Tomchin and Lukina pay a sanction of
8 \$250.00 per day, per person, until they purge their contempt. This sanction is stayed
9 for a period of seven (7) calendar days to afford Tomchin and Lukina another
10 opportunity to comply with their discovery obligations. Tomchin and Lukina may
11 purge their contempt by complying with the subpoena and their submission to a
12 deposition, and the Court encourages them to do so;

13 **IT IS FURTHER ORDERED** that, in the event Tomchin and Lukina fail to
14 purge their contempt within thirty (30) days of this Order, Desside may duly request,
15 and the Court will issue, a writ of body attachment, under which Tomchin and
16 Lukina shall be incarcerated until they comply with the Court's Orders.

17
18
19 DATE: May 27, 2014



United States Magistrate Judge

20
21 Submitted by:

22 **BUCKLEYSANDLER LLP**

23 /s/ Fredrick S. Levin

24 Richard E. Gottlieb (State Bar No. 289370)
25 Fredrick S. Levin (State Bar No. 187603)
26 100 Wilshire Boulevard, Suite 1000
27 Santa Monica, CA 90401
28 Phone: (310) 424-3984
Facsimile: (310) 424-3960

*Attorneys for Petitioner Desside
Holdings Limited*